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Federal Communications Commission
Office of Secretary

via Hand Delivery

Mr. Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Alarm Monitoring Services (CC Docket No. 96-152)

Dear Chairman Hundt:

The Commission is currently considering a rulemaking to implement Section 275 of the Telecommunications Act of 1996. That Section covers the prohibition for a five year period for Bell Operating Companies to provide alarm monitoring services. Among the issues under review in the rulemaking is the question of the proper meaning of the prohibition in Section 275(a)(2) on Ameritech's acquisition of financial control of, or an equity interest in, an unaffiliated alarm monitoring service "entity".

Congress' intent here is clear on its face. They sought to provide a five-year transitional period where six of the Bells were flatly prohibited from entering the alarm monitoring business in any way, shape or form. By adopting section 275(a)(2), Congress was making an exception for the one Bell, Ameritech, which they were willing to allow to remain in the business, but Congress intended to restrict its' growth to only the direct-marketing of customers. I would expect that the FCC would understand that any other interpretation negates the plain meaning of Congress in enacting this provision.

As one of the legislative consultants to the alarm industry during the period when the '96 Act was drafted and enacted, I believe the meaning and intent of Section 275(a)(2) is clear. Specifically, that provision was meant to prohibit Ameritech's growth by acquisition - whether through the purchase of shares, partnership interests *or assets* - for five years. Ameritech's claims to the contrary are both illogical and disingenuous for several reasons.

Ameritech seeks to limit the definition of "entity" to its narrowest (*i.e.*, corporations or partnerships), rather than the generally accepted broader definition of "anything real in itself".

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Second, Ameritech's interpretation of the '96 Act - that it can purchase every alarm monitoring provider in the U.S. through asset deals - violates a cardinal rule of statutory interpretation: it reads the law in a way that fails to give meaning to all of its parts. This occurs both because Ameritech's view renders meaningless the exception for the exchange of customers and because it conflicts with the obvious policy underlying the stature. (Ameritech's claims that the purpose behind Section 275(a)(2) is related to the prevention of hostile takeovers and tax avoidance lacks even a shred of support in the legislative history and frankly, appears to have been made up by Ameritech in a *post hoc* effort to justify its position).

Third, while the legislative history of Section (a)(2) was clouded by the insertion of individual statement by two Ameritech-area Members of Congress, the intent in the Senate was expressly to include a ban on asset acquisitions. A colloquy which included Chairman Pressler, Ranking Member Hollings, Majority Leader Dole and Senator Harkin made this explicitly clear. (Even the individual House statements relied on by Ameritech make no mention of hostile takeovers or tax avoidance; nor do they offer any other purpose underlying the statute which would permit asset purchases but forbid stock acquisitions). It is noteworthy that no other party to the legislative process which created Section 275 has come forward to support Ameritech. If asked, I believe the other BOCs would agree with the alarm industry understanding of the statute.

Candidly, I must admit I am puzzled by the apparent consternation shown by some at the Commission in addressing Ameritech's contentions. Although the '96 Act is 111 pages long and in some cases very detailed, it represents essentially a public policy blueprint for the Commission to implement. In other contexts, the Commission has shown no such meekness in actin to ensure that the Act is interpreted in a truly meaningful way. For example, the Commission has read the "costs *avoided*" language of Section 252 (d)(3) to mean "costs *avoidable*" and has ruled that promotional prices are not "retail rates" under section 251(c)(4).

Interpreting the statute in a way to protect the law's true meaning epitomizes the purpose of an expert agency. The FCC has taken many bold and decisive steps in implementing the '96 Act, making its hesitancy in such a clear case as Section 275(a)(2) all the more puzzling. Certainly, fear of reversal by the court of appeals should not be of concern, for the nonsensical view espoused by Ameritech is far more vulnerable on appeal that the plain, common sense reading advanced by the alarm industry. It is my sincere hope that, ultimately, you and the other Commissioners will reject Ameritech's illogical and disingenuous interpretation and act to prevent the evisceration of Section 275(a)(2).

Similarly, the Commission should limit the role of SBC Communications (or any other BOC) in the marketing of alarm monitoring services. If allowed to sell as an "agent" what it is forbidden to provide directly, SBC will gain all the financial abilities and incentives which the five-year ban is meant to preclude. There is no doubt that if SBC were proposing to market in-region interLATA services for AT&T under an agency agreement, it would be found in violation of the'96 Act. The prohibition of Section 275(a)(1) should be interpreted and enforced no less rigorously.

I would very much appreciate the opportunity to meet with you to discuss these issues in more detail.

Sincerely,

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Letitia Chambers